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Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-137-FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Pennsylvania permanent regulatory program (the "Pennsylvania program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Pennsylvania proposed to revise its regulations regarding licensing of blasters and the storage, handling and use of explosives. Pennsylvania intends to reorganize and clarify its blasting regulations to reflect the advances in technology and research associated with blasting.

EFFECTIVE DATE: August 15, 2003.

FOR FURTHER INFORMATION CONTACT: George Rieger, Acting Field Office Director, Harrisburg Field Office,

Telephone: (717) 782-4036, e-mail: grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Pennsylvania Program
- II. Submission of the Proposed Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

I. Background on the Pennsylvania Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, " * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of approval in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning Pennsylvania's program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of the Amendment

By letter dated February 25, 2002, Pennsylvania sent us an amendment to its program (Administrative Record No.

PA 878.02) under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment includes changes to Title 25, Part I, Subpart D, Article IV, Chapters 210 Blaster's License, and 211 Storage, Handling and Use of Explosives. We announced receipt of the proposed amendment in the April 30, 2002, **Federal Register** (67 FR 21187). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing, as one was not requested. The public comment period ended on May 30, 2002. We received comments from two Federal agencies and from one State agency. The Federal agencies were the U.S. Department of Labor, Mine Safety and Health Administration's (MSHA) New Stanton Office and the U.S. Environmental Protection Agency (EPA), Region III. The State agency was the Pennsylvania Historical and Museum Commission (PHMC).

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes and are approved here without discussion.

A. Minor Revisions to Pennsylvania's Rules

Pennsylvania proposed minor wording and recodification changes to the following previously approved rules:

Previously approved section	Recodified section (These sections may include minor wording changes from the original language.)	Subject
210.1(a)	210.16(a)	Examinations for Blaster's License.
210.1(b)	210.16(b)	Frequency of Examinations.
210.1(e)	210.15(b)	License Application.
210.2(d)	210.14(a)(4)	Requirement to Pass Examination.
210.2(e)	210.13(c)	Exhibiting License.
210.2(g)	210.16(c) and (d)	Forfeiture of Fees.
210.3(b)	210.17(f)	Lapsed Licenses.
210.5(a)	210.13(a) and 211.154(a)	Blaster in Charge.
210.5(b)	211.154(c)	Another person present during blast.
210.5(c)	211.102(a)	Scope.
211.2(2)	211.101	Definition—Magazine.
211.2(4)	211.101	Definition—Primer.
211.2(5)	211.101	Definition—Stemming.
211.2(6)	211.101	Definition—Building.
211.2(12)	211.101	Definition—Person.
211.2(18)	211.101	Definition—Charge Weight.
211.2(20)	211.101	Definition—Delay Interval.
211.32(1)	211.112(a)	Location of magazine.
211.36(1)	211.121(a)	Records of Disposition of explosives.
211.36(2)	211.101	Definitions of "purchase," and "sale or sell".
211.36(6), (7)	211.122(b), (c) and 211.123(b), (c)	Permits to sell/purchase explosives.
211.42(1), (3)–(12), and (15)–(17)	211.141	Transportation of Explosives.